IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1007 OF 2005

IN

EXECUTION APPLICATION NO.183 OF 2004

IN

SUMMARY SUIT NO.1510 OF 2002

M/s.G.M.Breweries Ltd. ...Plaintiffs

Versus

M/s.Siddhivinayak Builders & Ors. ...Defendants

And

Neelam N.Manchandani & Ravi N.Manchandani ...Intervenors/Obstruc./ Respondents

.....

Ms.Sumedha Rao for Applicants/Intervenors.

Mr.O.A.Das for Plaintiffs.

Mr.G.T.Mestha, Commissioner for Taking Accounts is present.

.....

CORAM: A.M.KHANWILKAR, J.

SEPTEMBER 20, 2005.

P.C.

1. Heard Counsel for the parties. The

Applicants have approached this Court for raising of attachment of building known as Venus shown as Item No.5 in the schedule to the Execution Application. This prayer is made on the assertion that the Applicants have purchased shop No.1 in Venus Building under registered agreement for sale dated 7th July 1998.

2. From the said agreement, which is produced on record, it is seen that the total consideration of Shop No.1 has been fixed as Rs.5,77,500/- (Rupees Five Lakhs Seventy-seven Thousand Five Hundred). The Applicants, in turn, have only paid sum of Rs.1,00,000/- (Rupees One Lakh). There is nothing on record to suggest that the Applicants have been put in possession by way of part performance of the Agreement dated 7th July 1998. The Agreement was entered into by the Applicants with the builder while the construction activity was in progress. There is nothing on record to snuggest that the Applicants have paid the entire consideration under the Agreement and possession of Shop No.1 has been made over to the Applicants. If it is so, there is no reason to set-aside the

warrant of attachment dated 7th July 2004.

3. Accordingly, this application fails. The same is rejected with costs.

A.M.KHANWILKAR, J.